

**Section II. Remarks****Filing of Terminal Disclaimer to Obviate Double Patenting Rejection**

Enclosed and submitted concurrently herewith is a Terminal Disclaimer, to obviate the double patenting rejection of claims 1-20 of the instant application, in relation to the claims issued in parent application 10/139,186, now U.S. Patent 6,698,619.

**Amendment of Claims 1 and 5, and Addition of New Claims 21-26**

Claim 1 has been amended herein to further specify the invention as recited therein. Specifically, the recital of "wherein said overpack and said liner are each vertically elongated, and said liner has a central port opening at an upper portion thereof when mounted in said interior volume" has been introduced in the claim. The features of such added recital are shown and described with reference to Figure 1 of the application.

In claim 5, the term "is" has been inserted to improve the grammatical character of the Markush language of such claim.

Additionally, new claims 21-26 have been introduced, to further specify further aspects of the invention in a manner consistent with the as-filed disclosure of the application. No new matter (35 USC §132) has been added.

**Rejection of Claims 1-14 and 20 on §§102/103 Reference Grounds**

In the December 29, 2004 Office Action, claims 1-14 and 20 were rejected on reference grounds, including:

a rejection of claims 1-10, 13 and 14 under 35 U.S.C. §102(b) as being anticipated by Horino et al. USP 5,750,216 (hereafter Horino);

a rejection of claims 1-3, 11 and 12 under 35 U.S.C. §102(b) as being unpatentable over Lang-Ree et al. USP 5,555,996 (hereafter Lang-Ree); and

a rejection of claims 4-10, 13, 14 and 20 under 35 U.S.C. §103(a) as being unpatentable over Lang-Ree in view of Horino.

These various rejections are hereby traversed, and reconsideration of the patentability of such claims is requested in light of the ensuing remarks, distinguishing the claimed invention of such claims over the disclosures of the cited references.

**Patentability of Claims 1-14 and 21-26 Over the Cited References**

Concerning the rejection of claim 1 on alternative §102(b) grounds of Horino or Lang-Ree, it is noted that claim 1 has been amended to recite:

1. A bag-in-a-drum container for storage and dispensing of liquid, comprising a substantially rigid overpack having an interior volume, and a 3-dimensional, closed liner of a flexible film material, mounted in said interior volume and capable of being filled with liquid, wherein said overpack and said liner are each vertically elongated, and said liner has a central port opening at an upper portion thereof when mounted in said interior volume. (emphasis added)

Neither of Horino or Lang-Ree discloses or suggests such a container. Horino discloses that the bag can be formed by injection molding, extrusion molding, drawing blow molding, and blow forming of an injection molded perform (column 7, lines 50-64), but there is no disclosure of a "3-dimensional, closed liner of a flexible film material," as required by claim 1 (see also the paragraph bridging pages 9 and 10 of the application, wherein the meaning of "3-dimensional, closed liner" is elaborated). Lang-Ree likewise contains no teaching or suggestion of a 3-dimensional, closed liner, merely referring to "a beverage syrup bag" (column 4, lines 16-17).

In addition to the foregoing, neither of Horino or Lang-Ree discloses or suggests a container in which "said overpack and said liner are each vertically elongated, and said liner has a central port opening at an upper portion thereof when mounted in said interior volume," as recited in claim 1.

Contrariwise, Horino teaches a horizontally elongate bag (having a horizontal dimension, when measured on the drawing of FIG. 2 of 1-9/16 inches, and a vertical dimension, correspondingly measured on such drawing, of less than 1-7/16 inches), and there is no central port on the upper portion of the bag, but rather a side outlet (mouthpiece 12 in FIG. 1; 8out in FIG. 2).

Lang-Ree teaches a horizontally elongate beverage syrup bag (see FIG. 16; bag 32), and there is no central port of the upper portion of the bag, but rather a syrup bag spigot (element 36; see FIG. 16) at a horizontal end of the bag, which is secured to the bag through an end wall opening 34 in the container body 12.

Thus, each of Horino and Lang-Ree fails to provide any derivative basis for a container in which "said overpack and said liner are each vertically elongated, and said liner has a central port opening at an upper portion thereof when mounted in said interior volume," as recited in claim 1.

For these reasons, claim 1 is patentably distinguished over each of Horino and Lang-Ree, as well as their combination. Since all other rejected claims 2-20 depend directly or indirectly from claim 1, such claims are likewise distinguished over the art and in form and condition for allowance.

In addition to such basis of patentability of claims 1-20, it is pointed out that additional basis exists for patentability of various of the dependent claims, including:

- the recital in claim 4 of "a polymeric film material containing no additives" which finds no basis in Lang-Ree or Horino, the latter specifically teaching that the plastics may include a wide variety of additives (see column 7, lines 36-39);
- the same basis in claim 6;
- the recital in claim 8 of "the liner has a zero headspace conformation when filled with liquid," which finds no basis in Lang-Ree or Horino;
- the same basis in claim 14; and
- the fact that no art has been cited (other than the now-obviated double-patenting rejection) against claims 15-19.

New claims 21-26 are likewise patentable over the cited references.

- claim 21 depends from claim 1, and additionally recites the liner as being "formed of material including polytetrafluoroethylene film" which material is not disclosed in either Lang-Ree or Horino;
- claim 22 recites, inter alia, "a 3-dimensional, closed liner of a flexible film material, mounted in said interior volume and capable of being filled with liquid, wherein said

liner has a central port opening at an upper portion of the liner when mounted in said interior volume, a lid adapted to cooperatively mate with the overpack to enclose said interior volume, a gas feed passage communicating with such enclosed interior volume, to introduce gas to the enclosed interior volume to exert pressure against the liner during dispensing operation, and said central port opening being adapted to engage with a dispensing assembly including a dispensing head and dip tube through which liquid is flowed during said dispensing operation" – no such structure is shown or suggested in the Lang-Ree or Horino references;

- claim 23 depends from claim 22, and is therefore correspondingly patentable, in addition to which such dependent claim recites that "said overpack and said liner are each vertically elongated" which is inconsistent with the structure set out in Lang-Ree and Horino;
- claim 24 depends from claim 23, and is therefore correspondingly patentable, in addition to which such dependent claim recites that the liner is "formed of material including polytetrafluoroethylene film" which material is not disclosed in either Lang-Ree or Horino;
- claim 25 depends from claim 22, and is likewise patentable in view of such dependence, in addition to which claim 22 recites the container as "containing a reagent for semiconductor manufacturing," thereby further distinguishing from the food and beverage materials contained in the Lang-Ree and Horino containers; and
- claim 26 recites a container including the features of "a 3-dimensional, closed liner of a flexible film material, mounted in said interior volume, having a zero headspace conformation and containing liquid comprising a reagent for semiconductor manufacturing, a liquid dispensing port at an upper end portion of the liner, and a cap

coupled to said port" -- no such features are derivable from or disclosed in either Lang-Ree or Horino.

For all these reasons, claims 1-26 as amended/added and now pending in the application are patentably distinguished over the cited references and in form and condition for allowance.


**Fees Payable for Terminal Disclaimer and Added Claims 21-26**

The fee of \$130 for the Terminal Disclaimer enclosed herewith, and the added claims fee of \$300 for the six total added claims, for a total of \$430, is enclosed in the form of a Credit Card Authorization Form specifying such amount. Authorization hereby is further given, to charge any additional fee or amount properly payable, to Deposit Account No. 08-3284 of Intellectual Property/Technology Law.

**CONCLUSION**

Claims 1-26 as now amended/added have been shown to be patentably distinguished over the cited references and in condition for allowance. Favorable action therefore is requested. If any issues remain, the examiner is requested to contact the undersigned attorney at (919) 419-9350 to resolve same.

Respectfully submitted,

  
\_\_\_\_\_  
Steven J. Hultquist  
Reg. No. 28,021  
Attorney for Applicant

**INTELLECTUAL PROPERTY/  
TECHNOLOGY LAW**  
Phone: (919) 419-9350  
Fax: (919) 419-9354  
Attorney File No.: 2771-565 CON (7489)